

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Case No. CR605-009
)	
RALPH PETERSON)	

REPORT AND RECOMMENDATION

Defendant seeks leave to proceed *in forma pauperis* (IFP) on his appeal of this Court’s decision to deny his 28 U.S.C. § 3582(c)(2) sentence reduction motion. Doc. 84. Despite his apparent poverty, however, “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). A defendant's good faith is demonstrated when he seeks appellate review of any issue that is not frivolous. *United States v. Alvarez*, 506 F. Supp. 2d 1285, 1290 (S.D. Fla. 2007), *citing Coppedge v. United States*, 369 U.S. 438 (1962). Hence, an IFP application may be denied “if it appears -- objectively -- that the appeal cannot succeed as a matter of law.” *Id.*, *citing DeSantis v. United Technologies Corp.*, 15 F. Supp. 2d 1285, 1289 (M.D. Fla. 1998), *aff’d*, 193 F.3d 522 (11th Cir. 1999). Further, a case is

frivolous for IFP purposes if it appears there is “little or no chance of success.” *Id.*, citing *Carroll v. Gross*, 984 F.2d 392, 393 (11th Cir. 1993).

Here, the district judge, exercising his discretion, declined to reduce Peterson’s sentence under the Fair Sentencing Act of 2010, Pub. L. 111-220 and related United States Sentencing Guidelines provisions. Doc. 83. Peterson has not offered any facts or argument suggesting that the decision was an abuse of discretion. Hence, the appeal is not taken in good faith under 28 U.S.C. § 1915 and his IFP motion should be **DENIED**. The same must be said for his motion for appointment of counsel. Doc. 91.

SO REPORTED AND RECOMMENDED this 28th day of March, 2012.



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA